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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,243

Applicant(s)

REILE ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19,21-41 and 43-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19,21-41 and 43-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the Request for Continued Examination (RCE) filed July 20, 2005 in which the applicant amends claims 1, 10, 19, 22, 26, and 31-32, and claims 1-19, and 21-41 are pending in this application.

In response to the supplemental amendment filed November 3, 2005 in which the applicant amends claims 1, 10, 19, 22, 26, and 31-32, adds new claims 43-62, and claims 1-19, 21-41, and 43-62 are pending in this application.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the element of claims 43, 52-57, and 62 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR

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1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-19, 21-32, 35-37, 43-51, and 58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey, II (US 2001/0038999) in view of Microsoft Office Shortcut Bar.

4. Hailey, II discloses the following:

A display and a toolbar on the display (figure 3) as recited in claims 1 and 10.

A memory (12) for storing the activity displayed on the hand-held electronic toy as recited in claim 2.

The memory having a removable read-only memory cartridge (19) as recited in claims 3, 12, and 45.

A communication device (18) configured to receive data from a second source (18 and paragraph 34) as recited in claims 4 and 13.

The second source having a read only memory cartridge (18 and paragraph 34) as recited in claims 5, 14, and 46.

The second source having an Internet site (18 and paragraph 34) as recited in claims 6 and 15.

The second source having a second hand-held electronic device (18 and paragraph 34) as recited in claims 7 and 16.

A stylus (25) that enables a user to interact with the display (summary and figure 3) as recited in claims 8 and 17.

The stylus (25) allows the user to select the interactive tools and the activities displayed on the display (summary and figure 3) as recited in claims 9 and 18.

A memory for storing at least one of the first activity and the second activity (figure 4 and paragraph 36) as recited in claim 11.

Receiving a selection of one of a plurality of activities for display on a display of a hand-held electronic toy (figure 3 and 4), the plurality of activities having at least one drawing activity (figures 3-4), receiving a selection of an interactive tool (figures 3-4), the interactive tool being associated with a selectable icon in a toolbar (figures 3-4), and displaying indicia of a characteristic of a selected interactive tool, the characteristics of the selected interactive tool including a drawing characteristic when a selected activity of the plurality of activities having at least one drawing activity (summary and figures 3-4) as recited in claim 19.

The plurality of activities having a first activity and a second activity, the first activity being a drawing activity, displaying a first indicia associated with the drawing activity, and displaying a second indicia associated with the second activity, the first indicia being different than the second indicia (figures 3-4 and paragraphs 35-38) as recited in claim 21.

Retrieving a first activity application (50 in figure 4) from a memory (12) for display on a hand-held electronic toy, the first activity being a drawing activity application (figures 3-4), determining a first characteristic of an interactive tool associated with an icon on a toolbar s disposed on the hand held electronic toy (figures 3-4), the first characteristic being associated with the retrieved drawing activity application (figure 4), retrieving a second activity application from a memory for display on the hand-held electronic toy, in which the examiner interprets the animation gallery to be an equivalent to the retrieving a second activity application from a memory for display on the hand-held electronic toy (50 in figure 4), and determining a second characteristic of the interactive tool associated with icon on the toolbar disposed on the hand-held electronic toy, in which the examiner interprets the animation of the drawing and the disabling of the icons during animation sequence to be an equivalent to determining a second characteristic of the interactive tool associated with icon on the toolbar disposed on the hand-held electronic toy (figures 3-4, 18, and paragraph 44), the second characteristic being associated with the retrieved second activity application (summary and paragraphs 35-38 and 43-44) as recited in claim 22.

Determining contents of a second menu of tool options that is associated with the selected interactive tool (figures 3-4 and paragraphs 35-38) as recited in claim 24.

Retrieving an activity application from a removable cartridge (19) as recited in claim 25.

Displaying a first selectable item, in which the examiner interprets the create new sketch and selecting one of the icons (27) to be equivalent to a first selectable item (50) on the hand-held electronic toy (figures 3-4), the first selectable item being associated with one of a plurality of drawing activities capable of being displayed on the hand-held electronic toy (figures 3-4), displaying a second selectable item (50) on the hand-held electronic toy (figures 3-4 and paragraphs 35-38), the second selectable item being associated with an interactive tool, the interactive tool having a characteristic in a first state (figures 3-4) as recited in claim 26

The first set of interactive tools includes the same interactive tools as the second set of interactive tools (paragraphs 35-38 and figure 3-4) as recited in claim 30.

A first memory (12), the first memory including code associated with first drawing activity (paragraph 34), a tool bar (figures 3-4) having a plurality of interactive tools, at least one of the plurality of interactive tools being associated with one of a first characteristic and a second characteristic (figures 3-4), the first characteristic being associated with the first drawing activity (figures 3-4) and a port (paragraph 34) configured to receive a second memory, the second memory including code associated with a second activity and having data associated with the at least one of a plurality of interactive tools, the second characteristic being associated with the second drawing activity, in which the examiner interprets the USB port capable of receiving flash cards to be an equivalent to the second memory including code associated with a second activity and having data associated with the at least one of a plurality of interactive tools, the second characteristic being

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associated with the second drawing activity (summary and paragraphs 34-44) as recited in claim 31.

A touch-screen display (paragraph 30) and a printed toolbar on the touch-screen (paragraph 32-33 and figure 3), the printed toolbar having a plurality of icons (figures 3-4), each of the plurality of icons associated with at least one drawing tool (summary and figures 3-4) as recited in claim 32.

The at least one drawing tool having a primary shapes tool (figure 3), the primary shapes tool associated with a plurality of secondary shapes tools, the primary shapes tool configured to allow a user to select one of the plurality of secondary shapes tools, each of the plurality of secondary shapes tools configured to allow a user to render a corresponding one of a plurality of predetermined shapes on the touch-screen display using a drawing stylus (figure 3 and paragraph 35) as recited in claim 35.

The hand-held electronic toy is configured to display a pop-up menu on the touch-screen display, the pop-menu having a graphical representation of the plurality of secondary shapes tools to the user (figure 3 and paragraph 35) as recited in claim 36.

The plurality of secondary shapes tools having a square, circle, and triangle tool, each of the shapes tool configured to render the corresponding one of the predetermined shapes on the touch-screen display in outline form (Figure 3 and paragraph 35) as recited in claim 37.

A touch-screen display having a toolbar portion (figure 3) and a modifiable portion, in which the examiner interprets a picture or drawing to be equivalent to a

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modifiable portion, the modifiable portion having a modifiable appearance and configure to display images based on interaction by a user (figure 3) as recited in claim 43.

A stylus configured to interact with the touch-screen display (25) as recited in claim 44.

The modifiable portion of the touch-screen display configured to be modified by a user (summary) as recited in claim 48.

The plurality of interactive tools includes an erase tool, the erase tool configured to erase an image on the modifiable portion of the touch-screen display (figure 3 and paragraph 35) as recited in claims 49 and 50.

At least one of the plurality of activities includes a drawing activity (figures 5-17 and summary) as recited in claim 51.

A modifiable display portion having a modifiable appearance and configured to display an image (figures 5-17 and summary) as recited in claim 58.

A display portion configured to be modified by a user (summary) as recited in claim 59.

A modifiable display portion having a modifiable appearance and configured to display an image, wherein the plurality of interactive tools includes an erase tool, the erase tool configured to erase an image on the modifiable display portion (figure 3 and paragraph 35) as recited in claims 60 and 61.

Hailey does not expressly disclose the following:

The toolbar having a fixed appearance including a plurality of interactive tools, at least one of the plurality of interactive tools enabling the selection of one of

a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities as recited in claims 1 and 43.

The interactive tools having a predetermined characteristics, each of the plurality of interactive tools being associated with one of the selectable icons, the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the drawing activity and a second characteristic associated with the second activity as recited in claim 10.

Determining a state of availability for the interactive tool as recited in claims 19 and 23.

Determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state as recited in claim 26.

The characteristic is an availability of the interactive tool (figures 3-4) and is a menu of contents of the interactive tool, in which the examiner interprets the custom button to be an equivalent to the availability of the interactive tool and is a menu of contents of the interactive tool (figures 3-4) as recited in claims 27 and 28.

The first set of interactive tools having different interactive tools than the second set of interactive tools, in which the examiner interprets the custom button to be an equivalent to the first set of interactive tools having different interactive tools than the second set of interactive tools as recited in claim 29.

When operational, each of the plurality of icons being one of activated and inactivated based on the activity selection as recited in claim 32.

Microsoft Office Shortcut Bar teaches the following:

The toolbar having a fixed appearance including a plurality of interactive tools (figure 1), at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities, in which the examiner interprets the customizable shortcut bar capable of having a plurality of tools and applications (programs) to be an equivalent to the at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a selected one of the plurality of activities (see attached figure 1) as recited in claim 1 and 43.

The interactive tools having a fixed appearance a predetermined characteristics (application), each of the plurality of interactive tools being associated with one of the selectable icons (figure 1), the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the first activity and a second characteristic (application) associated with the second activity, in which the examiner interprets the customizable shortcut bar capable of having a plurality of different activities (applications) with different characteristics to be an equivalent to the predetermined characteristic of at least one of the plurality of the interactive tools including a first characteristic associated with the first activity and a second characteristic associated (application) with the second activity (see attached figure 1) as recited in claim 10.

Determining a state of availability for the interactive tool, in which the examiner interprets the customize button in the tool bar of figure 1 to be an equivalent to determining a state of availability for the interactive tool as recited in claims 19 and 23.

Determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state, in which the examiner interprets the toolbar and the custom button to be an equivalent to determining whether to modify a state of the characteristic of the interactive tool from the first state associated with the drawing activity to a second state as recited in claim 26.

When operational, each of the plurality of icons being one of activated and inactivated based on the activity selection, in which the examiner interprets the customizable shortcut bar to be an equivalent to each of the plurality of icons being one of activated and inactivated based on the activity selection as recited in claim 32.

By having a toolbar having a fixed appearance, a plurality of interactive tools having predetermined characteristics and determining a state of availability, one of ordinary skill in the art would provide users the easy accessibility to specific instruments and applications needed to accomplish a given task.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hainey to include a toolbar having a fixed appearance including a plurality of interactive tools, at least one of the plurality of interactive tools enabling the selection of one of a plurality of activities, and at least another one of the plurality of interactive tools enabling interaction with a

selected one of the plurality of activities as taught by Microsoft Office Shortcut Bar to provide users the easy accessibility to specific instruments and applications needed to accomplish a given task.

5. Claims 33-34 and 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hailey (US 2001/0038999) in view of Microsoft Office Shortcut Bar as applied to claims 32 and 35 above, and further in view of Microsoft Paint (copyright 1981-1998 version 4).

6. Hailey in view of Microsoft Office Shortcut Bar discloses the claimed invention as discussed above except for the following:

The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user as recited in claims 34.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a plurality of straight lines as recited in claim 38.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display as recited in claim 39.

The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user as recited in claim 40.

The plurality of secondary special effects tools having a reverse-out tool, a rotate tool, and a mirror tool as recited in claim 41.

Microsoft Paint teaches the following:

The at least one drawing tool having a straight line tool configured to allow a user to render lines on the touch-screen display using a drawing stylus at a user-selectable line thickness (see figure on page 11) as recited in claim 33.

The hand-held electronic toy is configured to display a menu on the display, the menu having a graphical representation of a plurality of line thickness to the user (see figure on page 11) as recited in claims 34.

The at least one drawing tool having a primary special effects tool, the primary special effects tool associated with a plurality of secondary special effects tools, the plurality of secondary effects tools configured to alter an image rendered on the display (see figure on page 13) as recited in claim 39.

The display having a menu having a graphical representation of a plurality of secondary special effects tools to the user (see figure on page 13) as recited in claim 40.

The plurality of secondary special effects tools includes a reverse-out tool, a rotate tool, and a mirror tool (see figure on page 13) as recited in claim 41.

The plurality of secondary shapes tools having a polygon tool, the polygon tool configured to render the corresponding one of the predetermine shapes on the touch-screen display by connecting a plurality of predetermined points with a

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plurality of straight lines (see drawing on page 12) as recited in claim 38. By having a straight-line tool, a plurality of specialty effects tools, and a polygon tool, one of ordinary skill in the art would provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hainey to include straight line tool, a plurality of different effects tools, and a polygon tool as taught by Microsoft Paint to provide an easy way for a user to create and manipulate different shapes and figures with undiluted illustrations.

7. Claims 47, 52-57, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hainey, II (US 2001/0038999) in view of Microsoft Office Shortcut Bar as applied to claims 1, 10, 19, 22, 26, and 31-32 above, and further in view of Kang et al. (US 5,949,408).

8. Hainey, II in view of Microsoft Office Shortcut Bar discloses the claimed invention as discussed above except for the following:

The toolbar is a printed toolbar as recited in claims 47, 53-57, and 62.

Kang et al teaches the following:

The toolbar is a printed toolbar, in which the examiner interprets the hard icons in figures 3-4 to be an equivalent to the toolbar is a printed toolbar as recited in claims 47, 53-57, and 62. By having a printed toolbar, one of ordinary skill in the art would provide users with easy access to tools and applications to complete a given task or project.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Hainey, II to further include a printed

toolbar as taught by Kang et al to provide users with easy access to tools and applications to complete a given task or project.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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